

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 7

RIN 0560-AG90

#### Selection and Functions of Farm Service Agency State and County Committees

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the regulations governing the selection and functions of Farm Service Agency (FSA) State and county committees in accordance with the Soil Conservation and Domestic Allotment Act, as amended (the Act).

**DATE:** Comments must be received by January 29, 2007.

**ADDRESSES:** The Secretary invites interested persons to submit comments on this proposed rule. Comments may be submitted by any of the following methods:

- *E-mail:* send comments to: [countycommitteeelections@wdc.usda.gov](mailto:countycommitteeelections@wdc.usda.gov).
- *FAX:* FAX comments to (202) 720-6974.
- *Mail:* County Committee Regulations Comments, U.S. Department of Agriculture, Room 3092-S, Mail Stop 0539, 1400 Independence Ave., SW., Washington, DC 20250-0539.
- *Hand Delivery or Courier:* Deliver comments to the above mailing address.
- *Federal Rulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

All comments, including names and addresses, provided by respondents become a matter of public record. Comments may be inspected in the Office of the Deputy Administrator for Field Operations, FSA, at the above mailing address. Please make inspection arrangements by calling (202) 720-7890.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Nagel, Field Operations

Manager, FSA, United States Department of Agriculture (USDA), STOP 0542, 1400 Independence Avenue, SW., Washington, DC 20250-0542, telephone (202) 720-7890, or at [kenneth.nagel@wdc.usda.gov](mailto:kenneth.nagel@wdc.usda.gov). Persons with disabilities or who require alternative means for communications should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

#### SUPPLEMENTARY INFORMATION:

##### Public Comments

Public comments are invited with respect to the interpretation of the terms “participate” and “cooperate.” The definitions of these terms are provided at Section 7.3 of the proposed rule. These terms are significant because they determine the class of producers who may be nominated as candidates in county committee elections. Please see section 7.8 of the proposed rule for the provision on the nomination process for county committee elections. In addition, these terms determine the eligibility of producers who may vote in county committee elections. Please see section 7.5 for the provision on voting in county committee elections. For further reference, the Background section contains a discussion on the eligibility to vote in county committee elections.

##### Background

FSA county committees play an instrumental role in administering FSA programs at the county level, including carrying out FSA programs that have a financial impact on farmers and ranchers participating in FSA programs. County committees make producer eligibility determinations for farm programs, hear producer appeals on adverse determinations and render decisions at the county level. Each committee is comprised of three to five agricultural producers who participate or cooperate in programs administered in the county or area under a committee’s jurisdiction. *16 U.S.C. 590h(b)(5)(ii)*. County committee members are elected to 3-year terms by agricultural producers who participate or cooperate in programs administered in the county or area under the jurisdiction of the county committee. *Id.* County committee elections are conducted in local administrative areas designated by the Secretary or the Secretary’s designee. Each county or area under the jurisdiction of the county

committee consists of three to five local administrative areas in which a regular election is conducted every three years. By statute, county committees must be “fairly representative” of the agricultural producers in the county or area under a committee’s jurisdiction. *16 U.S.C. 590h(b)(5)(B)(ii)*.

On May 13, 2002, the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) (the 2002 Farm Bill) amended the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101-624) to ensure public transparency and accountability of election results, as well as to ensure the fair representation of socially disadvantaged (SDA) producers on county committees. Adopting the definition set forth in 7 U.S.C. 2003, the 2002 Farm Bill defines an SDA group as a group whose members have been subject to racial, ethnic, or gender prejudice because of their identity as members of the group, without regard to their individual qualities. *7 U.S.C. 2003(e)(1)*. SDA producers have generally been defined to include African-Americans, Hispanic Americans, Native Americans, Asian-Americans, Pacific Americans, Subcontinent Asian-Americans, and women. By statute, USDA must solicit nominations for county committee positions from organizations representing the interests of SDA groups. *16 U.S.C. 590h(b)(5)(B)(iii)(III)(bb)*.

7 CFR part 7, subtitle A, as amended, incorporates the requirements of the 2002 Farm Bill. The first change made by the 2002 Farm Bill was to define specifically the class of agricultural producers who are eligible to vote for county committee members as those producers who participate or cooperate in programs administered by FSA in the area under the committee’s jurisdiction. *16 U.S.C. 590h(b)(5)(B)(ii), (iii)(aa)*. Additionally, time-frames for participation are defined in the proposed rule to provide that an eligible voter must have participated in a program administered by FSA in the county or area under the committee’s jurisdiction within 1 year of the date of the election or be cooperating at the time of the deadline to vote, as evidenced by county office records. Previous regulations defined eligibility to vote to include any person who had an interest in a farm as owner, operator,

tenant, or share-cropper, and of legal voting age or if not of legal voting age, in charge of the supervision and conduct of the farming operation, if eligible to participate in any program administered by the county committee. The intent of the 2002 Farm Bill is to ensure county committee members are elected by those who are directly affected by county committee actions.

Voters who are deemed to be participants have received USDA benefits in the most recent time-frame. Voting rights are also extended to those producers considered to be cooperating with FSA who provide information to FSA regarding their farming or ranching operation, but are not currently receiving benefits or have applied for benefits. Producers cooperating may be considered as those who provide information such as ownership records, acreage reports, leasing terms, or other information that is maintained in FSA records. Producers cooperating with FSA should update the FSA on a timely basis to maintain their information. The information they provide is considered beneficial to USDA and may be used in future determinations for FSA programs. Maintaining data on individuals cooperating with FSA is necessary to ensure that non-participating producers are fully informed of programs administered by FSA. Farm and ranch data provided by cooperating producers becomes essential for FSA outreach efforts. All references to community committees and requirements for county conventions have been removed from the regulations. Community committees and county conventions have been eliminated from the FSA program over the years. Community committees have not been used as elective bodies since 1996. County committees were elected by delegates of the community committees at annual county conventions. Today and since 1996, all county committee elections are conducted by direct election by eligible voters. With respect to the determination of elective areas, all references to communities and conventions are removed.

The 2002 Farm Bill mandates public access requirements relating to county committee elections, requiring FSA county committees to open and count the ballots in public, allowing the public to observe the opening and counting of the ballots, and giving the public a 10-day notice of the date, time, and place that the ballots will be tabulated. *16 U.S.C. 590h(b)(5)(B)(iii)(IV)*.

To further promote transparency and public accountability, the 2002 Farm Bill imposes several reporting

requirements with regard to the results of county committee elections. No later than 20 days after an election is conducted, each county committee must file with the Secretary and the FSA State office a report on the election results. This local report must provide data to include the number of eligible voters, the number of ballots cast and disqualified, and the race, ethnicity, and gender of the nominees for the county committee position. *16 U.S.C. 590h(b)(5)(B)(iii)(V)*. 7 CFR part 7 is amended to require local election reports to contain the following information:

- (1) The number of eligible voters in the local administrative area;
- (2) The number of ballots cast in the election by eligible voters;
- (3) The percentage of eligible voters who cast ballots;
- (4) The number of ballots disqualified in the election;
- (5) The percentage that the number of ballots disqualified is of the number of ballots received;
- (6) The number of nominees for each seat up for election;
- (7) The race, ethnicity, and gender of each nominee, as provided by the voluntary self identification of each nominee; and,
- (8) The final election results to include the number of ballots received by each nominee.

Also, not later than 90 days after the date of the first election held after enactment of the 2002 Farm Bill (which would have been the 2002 election), the Secretary was required to compile a national report consolidating data on election results submitted by county committees. *Id. 16 U.S.C. 590h(b)(5)(B)(iii)(VI)*. Such national reports on the 2002, 2003, and 2004 elections were prepared and made public. These national reports may be viewed at <http://www.fsa.usda.gov/FSA/webapp?area=newsroom&subject=landing&topic=cce>. Based on this reporting, the FSA national office will provide feedback and guidance to county offices on their outreach efforts and on the election process.

Most critically, the 2002 Farm Bill gave the Secretary discretion to issue uniform guidelines governing the county committee election process if the Secretary deemed that such guidelines were necessary after analyzing the data from the national report. *16 U.S.C. 590h(b)(5)(B)(iii)(VII)(aa)*. By law, the uniform guidelines must contain provisions ensuring fair representation of SDA producers on county committees where they are underrepresented in relation to their presence in the respective covered areas. *16 U.S.C.*

*590h(b)(5)(B)(iii)(VII)(bb)*. After reviewing the national reports on the 2002 and 2003 elections, the Secretary determined that issuing such uniform guidelines was appropriate. *Uniform Guidelines for Conducting Farm Service Agency County Committee Elections* were published in the **Federal Register** on January 18, 2005, (70 FR 2837) pursuant to Section 10708 of the 2002 Farm Bill. FSA is required to follow the uniform guidelines in conducting county committee elections and FSA regulations and directives on conducting such elections must conform to these guidelines. FSA is also required to conduct training of county employees on the implementation of the uniform guidelines and FSA's regulations.

The requirement for county committees to maintain a list of eligible voters for public inspection has been expanded to now require county committees to provide a list of names and addresses of eligible voters to any candidate for county committee requesting the list.

County committees shall develop a slate of candidates to consist of one or more candidates as provided by open nominations. County committees are allowed to add names to a slate only if no names are received at the county office through the open nomination process, and then may only add two names, with one who is a socially disadvantaged producer. The process to challenge an election has been changed. Previously, any eligible voter could challenge the results of an election. Appeals to the validity of a county committee election may now only be filed by a nominee.

Following the uniform guidelines, the proposed rule contains several provisions governing the election process, which include: (1) An annual review of local administrative areas (LAA) (the specific area within a county or counties that a single county committee member represents) in order to determine if redrawing the boundaries or changing the number of LAA's in a county is appropriate to ensure fair representation of producers; (2) approval by the FSA State office of any changes in LAA boundaries or number of LAA's; (3) regular maintenance of lists of eligible voters; (4) review by the FSA State office of voter ineligibility determinations made by an FSA county committee when review is sought by a producer; (5) direct mailing of nomination forms to eligible voters, as well as wider public accessibility of such forms; (6) when no nominations are filed, ensuring that the slate is filled with at least one member of an SDA group; (7) providing the

Secretary with the authority to nominate candidates; and (8) at the option of a candidate, direct mailing of ballots to the State office, which will then provide the ballots to each county office in a sealed box to be opened at the public counting of ballots.

7 CFR part 7 is further amended by removing references to county office employee personnel actions from the regulation and placing this section into FSA personnel management handbook policy. The Deputy Administrator will continue responsibility for the oversight of all State and county committees, employees of State and county committees, and employees of county executive directors. 7 CFR part 7 is further amended by removing references to county committee political activity from the regulation and placing this section into FSA handbook policy. 7 CFR part 7 is further amended to define a term of office as one in which a member has served for a period of one and one-half years, or greater, of that term.

USDA intends to continually monitor the effectiveness of election reform efforts in order to determine if the measures contained in these guidelines are sufficient to ensure fair representation of producers on county committees. This will include efforts to improve the collection of data required to measure whether there is fair representation. USDA will also continue to improve the implementation of the uniform guidelines, as well as to determine if additional efforts are necessary. Such additional efforts could include compliance reviews of particular counties and further centralization of the election process.

One of the possible additional measures is provided in the 2002 Farm Bill itself. The 2002 Farm Bill provides that the Secretary is permitted to ensure the inclusion of SDA producers on county committees by enacting provisions allowing for the appointment of an additional voting member to the committee. *Id.* 16 U.S.C. 590h(b)(5)(B)(iii)(VII)(cc). The Secretary has the discretion whether to exercise this authority. The Secretary intends to continually evaluate whether the reforms set forth in the uniform guidelines are achieving their goal of ensuring fair representation of SDA producers. Based on such evaluations, the Secretary will determine whether to exercise the authority to appoint SDA producers to committees. In the event that the Secretary does decide to utilize the appointment authority, the Secretary will only do so after providing an opportunity for the public to comment

on proposed provisions under which such appointments will be made.

#### Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988. The provisions of this proposed rule are not retroactive and preempt State laws only to the extent such provisions are inconsistent with State laws.

#### Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

#### Paperwork Reduction Act

Information collection requirements in this regulation were approved by OMB and assigned OMB control number 0560-0229 as required by the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*)

#### Unfunded Mandates Reform Act

This proposed rule contains no Federal mandates for State, local, or tribal governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

#### List of Subjects for 7 CFR Part 7

Agriculture, State and County committees.

Accordingly, for the reasons cited above, 7 CFR part 7 is proposed to be revised to read as follows:

### PART 7—SELECTION AND FUNCTIONS OF FARM SERVICE AGENCY STATE AND COUNTY COMMITTEES

Sec.

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- 7.31 Administrative operations.
- 7.32 Implementation.
- 7.33 Applicability.
- 7.34 Retention of authority.

**Authority:** 16 U.S.C. 590d and 590h.

#### § 7.1 Administration.

(a) The regulations of this part are applicable to the election and functions of Farm Service Agency (FSA) county committees and the functions of State FSA committees (“county committees” and “State committees,” respectively). State and county committees shall be under the general supervision of the Administrator, FSA.

(b) State and county committees, and representatives and employees thereof, do not have authority to modify or waive any of the provisions of this part.

(c) State committees shall take any actions required by these regulations that have not been taken by a county committee. State committee shall also:

- (1) Correct, or require a county committee to correct any action taken by such county committee which is not in accordance with this part, or
- (2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No provision or delegation herein to a State or county committee shall preclude the Administrator, FSA, from determining any question arising under this part, or from reversing or modifying any determination made by a State or county committee.

(e) These regulations shall be administered in accordance with the guidelines issued pursuant to Section 10708 of the Farm Security and Rural Investment Act of 2002 (16 U.S.C. 590h(b)(5)(VII)(aa)).

#### § 7.2 General.

State and county committees shall, as directed by the Secretary or a designee

of the Secretary, carry out the programs and functions of the Secretary.

### § 7.3 Definitions.

(a) The terms defined in § 718.2 of this title shall also be applicable to this part.

(b) For the purposes of this part, the term “participate” means to receive assistance, services, or benefits directly from the United States Department of Agriculture (USDA), or from USDA indirectly through another governmental agency.

(c) For the purposes of this part, the term “cooperate” means to enroll a farming operation or agricultural property with a county office.

### § 7.4 Selection of committee members.

(a) State committee members shall be selected by the Secretary and shall serve at the pleasure of the Secretary.

(b) County committee members shall be elected in accordance with § 7.11.

### § 7.5 Eligible voters.

(a) Persons eligible to vote in direct elections of county committee members must meet the requirements of paragraphs (b) and (c) of this section.

(b) Agricultural producers, regardless of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status, and who are of legal voting age in the State in which their farms or ranches are located, and any person not of such legal voting age who is in charge of the supervision and conduct of the farming operations on an entire farm, shall be eligible to vote for direct election of county committee members, if they:

(1) Participated in a program administered within a county or area under the jurisdiction of the county committee, within 1 year of the date of the election; or,

(2) Not later than the final date to return ballots, cooperate as evidenced in county office records.

(c) In any State having a community property law, the spouse of a person who is eligible to vote in accordance with paragraph (b) of this section shall also be eligible to vote.

(d) If an eligible voter is an entity other than an individual, the eligible voter's vote may be cast by a duly authorized representative of such entity, as determined by the Deputy Administrator, Field Operations, FSA (Deputy Administrator).

(e) Each county office shall maintain a list of eligible voters for each local administrative area within the county. A county office shall disclose a list containing the names of eligible voters

to the public. A county office shall disclose a listing containing the names and addresses of eligible voters to candidates for county committee positions only at the request of the candidates.

(f) Each eligible voter shall be entitled to only one ballot in any election held in any one local administrative area. If the eligible voter has an interest in land located in more than one local administrative area in a single county, such voter shall not be entitled to vote in more than one local administrative area in that county. There shall be no voting by proxy.

### § 7.6 Establishment of local administrative areas.

The Secretary or the Secretary's designee may designate local administrative areas within a county or a larger area under the jurisdiction of a county committee.

(a) There shall be a minimum of three local administrative areas in each county. In counties that have been combined as a multiple county office, there shall be three to five local administrative areas. With respect to Alaska and Puerto Rico, the term “county” shall be the area so designated by the State committees and in Louisiana the term “county” applies to parishes.

(b) Each local administrative area shall have not more than one county committee member.

(c) The boundaries of the local administrative areas shall be determined by the State committee after considering recommendations by the county committee in which the local administrative area is located.

(d) The county committee shall give public notice of the local administrative area boundaries in advance of the election and nomination processes.

### § 7.7 Calling of elections.

(a) The Secretary shall establish a county or area committee in each county or area. An area is defined as the jurisdiction of a multiple county office.

(b) Each election of county committee members shall be held on a date, or within a specified period of time, determined by the Deputy Administrator. Each such election shall be held in accordance with instructions issued by the Deputy Administrator, which shall be available for public examination in each county office.

(c) If the number of eligible voters voting in any election of county committee members is so small that the State committee determines that the result of that election does not represent the views of a substantial number of

eligible voters, the State committee may declare the election void and call a new election. If it is determined by the State committee that the election for any position on a county committee has not been held substantially in accordance with official instructions, the State committee shall declare such election void and call a new election.

### § 7.8 Nominations for county committee.

(a) Nominations to the county committee shall be publicly solicited with a closing date for nominations not less than 90 days prior to the election date.

(b) Each solicitation for nomination shall include the nondiscrimination statement used by the Secretary.

(c) To be eligible for nomination for election in the local administrative area conducting the election, a person must be an agricultural producer residing within that local administrative area under the jurisdiction of the county committee.

(d) Eligible nominees shall be agricultural producers who:

(i) Participated in a program administered within an area under the jurisdiction of the county committee, within 1 year of the deadline to submit nominations; or,

(ii) At the time of the deadline to submit nominations, cooperate as evidenced in county office records.

(e) Nominations of eligible producers shall be solicited and accepted from organizations representing the interests of socially disadvantaged producers.

(f) Eligible producers may nominate themselves or other producers who meet the nomination criteria in paragraph (d) of this section, and certify their willingness to serve on the county committee.

### § 7.9 Slate of candidates.

(a) A slate of candidates shall consist of one or more eligible producers nominated through public solicitation of nominees.

(b) When no nominations are received, county committees shall develop a slate of candidates in accordance with the guidelines issued pursuant to Section 10708 of the Farm Security and Rural Investment Act of 2002 (*16 U.S.C. 590h(b)(5)(VII)(aa)*).

(c) Slates developed by the county committee shall include at least one individual representing the interests of socially disadvantaged producers.

(d) Candidates shall certify their willingness to serve on the county committee if elected as a member or alternate.

(e) The county committee shall accept write-in candidates on ballots.

(f) Write-in candidates, if elected as a member or an alternate, must meet eligibility requirements and shall certify their willingness to serve on the county committee.

#### **§ 7.10 Conduct of county committee elections.**

(a) The county committee serving at the time shall be responsible for the conduct of county committee elections in accordance with guidelines issued pursuant to Section 10708 of the Farm Security and Rural Investment Act of 2002 (*16 U.S.C. 590h(b)(5)(VII)(aa)*) and instructions issued by the Deputy Administrator.

(b) Elections shall not be associated with, or held in conjunction with, any other election or referendum conducted for any other purpose.

(c) The county committee shall give advance public notice at least 30 calendar days prior to the election date of how, when, and where eligible voters may vote.

(d) The county committee shall provide at least 10 calendar days of public notice of the date, time, and place at which election ballots will be opened and counted.

(e) The county committee shall provide at least 10 calendar days of public notice that any person may observe the opening and counting of the election ballots.

(f) All nominees shall be notified within 5 calendar days of the election date in writing of the outcome of the election by the county executive director.

#### **§ 7.11 Election of county committee members.**

(a) Where there are three local administrative areas as provided in § 7.6, there shall be an election of a county committee member and, if available, any alternates, for a term of not more than 3 years, or until such person's successor is elected and qualified, in only one of the local administrative areas so that the term of office of the county committee member and any alternates within one of the local administrative areas will expire each year.

(b) Where there are four to five local administrative areas as provided in § 7.6 there shall be an election of county committee members and, if available, any alternates for a term of not more than 3 years, or until such person's successor is elected and qualified, in one or two of the local administrative areas so that the term of office of the county committee member and any alternates within one or two of the local administrative areas will expire each year.

(c) Every 3 years, the eligible voters in a local administrative area shall elect a county committee member and may elect first and second alternates, as available, to serve in the order of the number of votes received as acting members of the county committee, in case of the temporary absence of a member, or to become a member of the county committee in that same order elected in case of the resignation, disqualification, removal, or death of a member.

(d) An alternate serving as an acting member of the county committee shall have the same duties, responsibility, and authority as a regular member of such committee. In the event an alternate fills a permanent vacancy on the county committee, such person shall assume the unexpired term of the county committee member who was replaced.

(e) The election shall be conducted by mail ballot in accordance with the guidelines issued pursuant to Section 10708 of the Farm Security and Rural Investment Act of 2002 (*16 U.S.C. 590h(b)(5)(VII)(aa)*) in all counties, except that the Deputy Administrator may authorize use of the meeting or polling place method in any county where such exception is deemed justified.

(f) Where elections are by mail or by polling place, the county committee shall give advance public notice that nominations shall be made by petition in accordance with the guidelines issued pursuant to Section 10708 of the Farm Security and Rural Investment Act of 2002 (*16 U.S.C. 590h(b)(5)(VII)(aa)*).

(g) Elections shall be by secret ballot with each eligible voter allowed to cast one vote and having the option of writing in the name of a candidate.

(h) Failure to elect alternates at the regular election shall not invalidate such election or require a special election to elect alternates.

#### **§ 7.12 Composition of a county or area committee.**

(a) A committee established under § 7.11 shall consist of not fewer than three or more than five members.

(b) Committee members shall be fairly representative of the agricultural producers within their respective LAA from which they are elected.

(c) The county committee shall select a secretary who shall be the county executive director or other employee of the county committee.

#### **§ 7.13 Tie votes.**

Tie votes in county committee elections shall be settled by lot in public purview.

#### **§ 7.14 Vacancies.**

(a) In case of a vacancy in the office of chairperson of a county committee, the respective vice chairperson shall become chairperson; in case of a vacancy in the office of vice chairperson of a three member committee, the respective third member shall become vice chairperson; in case of a vacancy in the office of a member, a respective first alternate, if available, shall become a member; in case of a vacancy in the office of vice chairperson of a four to five member county committee, the first alternate, if available, for the LAA of the vice chairperson shall become a member and the county committee shall conduct an organizational meeting to select a vice chairperson; and in case of a vacancy in the office of the first alternate, a respective second alternate, if available, shall become the first alternate. When unanimously recommended by the members of the county committee, as constituted under this paragraph, and approved by the State committee, the offices of chairperson and vice chairperson of the county committee may be filled from such membership without regard to the order of succession prescribed in this paragraph.

(b) In the event that a vacancy, other than one caused by temporary absence, occurs in the membership of the county committee and no alternate is available to fill the vacancy, a special election may be held to fill such vacancies as exist in the membership.

(c) In the event that a vacancy, other than one caused by temporary absence, occurs in the membership of the county committee and no alternate is available to fill the vacancy, the State committee may designate a person to serve out the balance of the term of the vacant position on the county committee.

#### **§ 7.15 Challenges and appeals.**

(a) Challenges and appeals by nominees regarding voter eligibility or the results of a county committee election shall be handled in accordance with the guidelines issued pursuant to Section 10708 of the Farm Security and Rural Investment Act of 2002 (*16 U.S.C. 590h(b)(5)(VII)(aa)*).

(b) Any nominee shall have the right to challenge an election in writing, in person, or both within 15 calendar days after the results of the election are posted.

(c) Challenges to the election shall be made to the county committee, which will provide a decision on the challenge to the appellant within 7 calendar days of the receipt of the challenge.

(d) The county committee's decision may be appealed to the State Committee

within 15 calendar days of receipt of the notice of the decision if the appellant desires.

(e) In the event that an election is nullified as a result of a challenge or appeal, or an error in the election process, a special election shall be conducted by the county office and closely monitored by the FSA State office.

#### **§ 7.16 Report of election.**

(a) The county committee shall file an election report with the Secretary through the Deputy Administrator's office not later than 20 days after the date an election is held.

(b) The election report shall include:

- (1) The number of eligible voters in the local administrative area;
- (2) The number of ballots cast in the election by eligible voters;
- (3) The percentage of eligible voters that cast ballots;
- (4) The number of ballots disqualified in the election;
- (5) The percentage that the number of ballots disqualified is of the number of ballots received;
- (6) The number of nominees for each seat up for election;
- (7) The race, ethnicity, and gender of each nominee, as provided by the voluntary self identification of each nominee; and
- (8) The final election results, including the number of ballots received by each nominee.

#### **§ 7.17 Remedial measures**

FSA shall consider additional efforts to achieve the objective that county committees are fairly representative of agricultural producers within areas covered by the committees. Such efforts may include, but are not limited to, compliance reviews of selected counties, consideration of at-large seats or cumulative voting for certain county committees, further centralization of the election process, and the appointment of socially disadvantaged farmers to particular committees in accordance with a provision issued by the Secretary authorizing such appointments.

#### **§ 7.18 Eligibility requirements of county committee members.**

(a) To be eligible to hold office as a county committee member or an alternate to any such office, a person must meet the conditions set forth in this section.

(b) Such person must:

- (1) Satisfy the nomination criteria set forth in § 7.8.
- (2)(i) Except as provided in paragraph (b)(2)(ii) of this section, be residing in the local administrative area in which the election is held.

(ii) In cases where a State line, a county line, or a local administrative area boundary runs through a farm, eligible producers residing on such farm may hold office in the county and local administrative area in which the farm has been determined to be located for program participation purposes.

(3) Not be ineligible under § 7.27.

(4) Not have been dishonorably discharged from any branch of the armed services; removed for cause from any public office; convicted of any fraud, larceny, embezzlement, or felony, unless any such disqualification is waived by the State committee or the Deputy Administrator;

(5) Not have been removed as a county committee member, alternate to any such office, or as an employee for: Failure to perform the duties of the office; committing, attempting, or conspiring to commit fraud; incompetence; impeding the effectiveness of any program administered in the county; refusal to carry out or failure to comply with the Department's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfering with others in carrying out such policy; or for violation of official instructions, unless any such disqualification is waived by the State committee or the Deputy Administrator;

(6) Not have been disqualified for future service because of a determination by a State committee that during previous service as a county committee member, alternate of any such office, or as an employee of the county committee such person has: failed to perform the duties of such office or employment; committed, attempted, or conspired to commit fraud; impeded the effectiveness of any program administered in the county; in the course of their official duties, refused to carry out or failed to comply with the Department's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfered with others in carrying out such policy; or violated official instructions, unless any such disqualification is waived by the State committee or the Deputy Administrator;

(7) Not be an employee of the U.S. Department of Agriculture during the term of office;

(8) Not be a sales agent or employee of the Risk Management Agency or their affiliates during the term of office;

(9) Not be serving as a county committee member with one or more years remaining in their current term of office; and

(10) Not have served three consecutive terms as county committee

member just prior to the current election in which elected office is sought. A member will be considered to have served a term if that member served for a period of one and on-half years, or greater, of that term.

#### **§ 7.19 Eligibility requirements of all other personnel.**

(a) The county executive director and other employees of the county committee must not have been: dishonorably discharged from any branch of the armed services; removed for cause from any public office; or convicted of any fraud, larceny, embezzlement, or any other felony, unless any such disqualification is waived by the State committee or the Deputy Administrator.

(b) The county executive director or any other employee of the county committee must not have been removed as a county committee member, alternate to any such office, county executive director, or other employee of the county committee for: failure to perform the duties of the office; committing, attempting, or conspiring to commit fraud; incompetence; impeding the effectiveness of any program administered in the county; refusal to carry out or failure to comply with the Department's policy relating to equal opportunity and civil rights, including equal employment policy, or interfering with others in carrying out such policy; or for violation of official instructions, unless such disqualification is waived by the State committee or the Deputy Administrator.

(c) The county executive director or any other employee of the county committee must not have been disqualified for future employment because of a determination by a State committee that during previous service as a county committee member, alternate to any such office, or as an employee of the county committee has: failed to perform the duties of such office or employment; committed, attempted, or conspired to commit fraud; impeded the effectiveness of any program administered in the county; refused to carry out or failed to comply with the Department's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfered with others in carrying out such policy; or violated official instructions, unless such disqualification is waived by the State committee or the Deputy Administrator.

#### **§ 7.20 Dual office.**

A member of the county committee may not be at the same time:

- (a) The secretary to the county committee;
- (b) A member of the State committee; or
- (c) County executive director or any other county office employee.

**§ 7.21 Terms of office of county committee members.**

The term of office of county committee members and alternates to such office shall begin on a date fixed by the Deputy Administrator, which shall be after their election. Before any such county committee members or alternates to the county committee may take office as a county committee member, such person shall sign an oath of office pledge that they will faithfully, fairly, and honestly perform to the best of their ability all of the duties devolving on them as committee members. A term of office shall continue until a successor is elected and qualified as provided in §§ 7.8 and 7.9.

**§ 7.22 State committee duties.**

The State committee, subject to the general direction and supervision of the Deputy Administrator, shall be generally responsible for carrying out in the State all farm programs and farm loan programs or any other functions assigned by the Secretary or a designee of the Secretary.

**§ 7.23 County committee duties.**

(a) The county committee, subject to the general direction and supervision of the State committee shall be generally responsible for carrying out in the county, farm programs and any other program or function assigned by the Secretary or a designee of the Secretary.

(b) The county committee shall:

(1) Employ the county executive director, subject to standards and qualifications furnished by the State committee except that incumbent directors shall not be removed other than in accordance with the provisions of § 7.28 of this part. There shall be no employment discrimination due to race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status. The county executive director may not be removed for advocating or carrying out the Department's policy on equal opportunity and civil rights, including the equal employment policy. In the event it is claimed that dismissal is for such reasons, the dismissal shall not become effective until the State committee and the Deputy Administrator have determined that dismissal was not because of such reasons;

(2) Direct outreach activities to reach and inform socially disadvantaged

producers of all programs and county committee election processes;

(3) Pursuant to official instructions, review, approve, and certify forms, reports, and documents requiring such action in accordance with such instructions;

(4) Recommend to the State committee needed changes in boundaries of local administrative areas;

(5) Make available to farmers and the public, information concerning the objectives and operations of the programs administered through the county committee;

(6) Make available to agencies of the Federal Government and others information with respect to the county committee activities in accordance with official instructions issued;

(7) Give public notice of the designation and boundaries of each local administrative area within the county prior to the election of county committee members;

(8) Direct the giving of notices in accordance with applicable regulations and official instructions;

(9) Recommend to the State committee desirable changes in or additions to existing programs;

(10) Conduct such hearings and investigations as the State committee may request; and

(11) Perform such other duties as may be prescribed by the State committee.

**§ 7.24 Chairperson of the county committee duties.**

The chairperson of the county committee or the person acting as the chairperson shall preside at meetings of the county committee, certify such documents as may require the chairperson's certification, and perform such other duties as may be prescribed by the State committee.

**§ 7.25 County executive director duties.**

(a) The county executive director shall execute the policies established by the county committee and be responsible for the day-to-day operations of the county office.

(b) The county executive director shall:

(1) In accordance with standards and qualifications furnished by the State committee, employ the personnel of the county office. There shall be no employment discrimination due to race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. An employee may not be removed under this paragraph for advocating or carrying out the Department's policy on equal opportunity and civil rights, including the equal employment policy.

In the event it is claimed that the dismissal is for such reason, the dismissal shall not become effective until the State committee and the Deputy Administrator have determined that dismissal was not because of such reason;

(2) Receive, dispose of, and account for all funds, negotiable instruments, or property coming into the custody of the county committee;

**§ 7.26 Private business activity and conflicts of interest.**

(a) No county committee member, alternate to any such office, or county office employee shall at any time use such office or employment to promote any private business interest.

(b) County committee members, alternates, and any person employed in the county office shall be subject to the official instructions issued with respect to conflicts of interest and proper conduct.

**§ 7.27 Political activity.**

Permitted and prohibited political activities, with respect to any State committee member, county committee member, county executive director, or any other county employee, shall be determined in accordance with applicable policies specified in FSA handbooks and directives.

**§ 7.28 Removal from office or employment for cause.**

Adverse personnel actions involving any county committee member, county executive director, or any other county employee will be taken in accordance with applicable policies specified in FSA handbooks and directives.

**§ 7.29 Delegation of authority to Deputy Administrator.**

Notwithstanding the authority vested by this part in a State committee, a county committee, and the county executive director, the Deputy Administrator shall have authority to suspend and/or remove or disqualify for future service or employment, any county committee member, county executive director, or other county employee, for any and all of the reasons and causes authorizing such suspension, removal, and disqualification by the State committee, the county committee, or the county executive director. Any person suspended, removed or disqualified pursuant to this section shall be given a written statement of the reason for such action and shall be advised of the right of review.



**§ 7.30 Custody and use of books, records, and documents.**

(a) All books, records, and documents of or used by the county committee in the administration of programs assigned to it, or in the conduct of elections, shall be the property of the Commodity Credit Corporation or the United States Department of Agriculture, as applicable, and shall be maintained in good order in the county office.

(b) For polling and mail-type elections, voted ballots shall be placed into and remain in sealed containers, such containers not being opened until the prescribed date and time for counting. Following the counting of ballots in all types of elections, the ballots shall be placed in sealed containers and retained for 1 year unless otherwise determined by the Deputy Administrator.

(c) The books, records, and documents referred to in paragraph (a) of this section shall be available for use and examination:

(1) At all times by authorized representatives of the Secretary; the Administrator, or a designee of the Administrator.

(2) By state and county committee members, and authorized employees of the State and county office in the performance of duties assigned to them under this part, subject to instructions issued by the Deputy Administrator;

(3) At any reasonable time to any program participant insofar as such person's interests under the programs administered by the county committee may be affected, subject to instructions issued by the Deputy Administrator; and

(4) To any other person only in accordance with instructions issued by the Deputy Administrator.

**§ 7.31 Administrative operations.**

The administrative operations of county committees including but not limited to the following, shall be conducted, except as otherwise provided in these regulations, in accordance with official instructions issued: annual, sick, and other types of employee leave; the calling, and conduct of elections; and the maintenance of records of county committee meetings.

**§ 7.32 Implementation.**

Unless specifically provided in this part, the Deputy Administrator, Field Operations, FSA, is authorized to issue the instructions and procedures referred to herein which implement the provisions of this part.

**§ 7.33 Applicability.**

This part shall apply to the United States, its territories, and Puerto Rico.

**§ 7.34 Retention of authority.**

Nothing in this part shall preclude the Secretary, the Administrator, or the Deputy Administrator from administering any or all programs, or exercising other functions delegated to the county committee, State committee, or any employee of such committees. In exercising this authority, the Secretary, the Administrator, or the Deputy Administrator may designate for such period of time as deemed necessary a person or persons of their choice to be in charge with full authority to carry on the programs or other functions without regard to the normal duties of such committees or employees.

Signed at Washington, DC November 17, 2006.

**Chuck Connor,**

*Acting Secretary of Agriculture.*

[FR Doc. E6-20052 Filed 11-27-06; 8:45 am]

**BILLING CODE 3410-05-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

**[Docket No. FAA-2006-26232; Directorate Identifier 2006-CE-62-AD]**

**RIN 2120-AA64**

**Airworthiness Directives; EADS SOCATA Model TBM 700 Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a report of a master cylinder yoke failure. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** We must receive comments on this proposed AD by December 28, 2006.

**ADDRESSES:** You may send comments by any of the following methods:

- *DOT Docket Web Site:* Go to <http://dms.dot.gov> and follow the

instructions for sending your comments electronically.

- *Fax:* (202) 493-2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

**Examining the AD Docket**

You may examine the AD docket on the Internet at <http://dms.dot.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647-5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; fax: (816) 329-4090.

**SUPPLEMENTARY INFORMATION:****Streamlined Issuance of AD**

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. The streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the